

The reason that that language appears in 5.10 and not in 5.08 is because as 5.10 is drafted and will be left to the legislature, a district court judge will not necessarily be resident in each county of the State. The requirement is that at least one judge reside in each district. That is why the Committee felt that there should be a requirement that each district court judge, as spelled out in section 5.10, sit regularly in each county in that district.

We did not feel that the same language should be placed in section 5.08 because section 5.08 does provide that there be at least one superior court judge resident in each county. For that reason I urge the defeat of the amendment.

THE CHAIRMAN: Are you ready for the question? The Clerk will sound the quorum bell.

The question arises on adoption of Amendment No. 9 to Committee Recommendation JB-1.

A vote Aye is a vote in favor of Amendment No. 9. A vote No is a vote against.

Cast your votes.

Has every delegate voted? Does any delegate desire to change his vote?

*(There was no response.)*

The clerk will record the vote.

There being 39 votes in the affirmative, 80 in the negative, the motion is lost. The amendment is rejected.

The chief page will please distribute amendment marked C. Please mark this Amendment No. 10. The Clerk will read the amendment.

READING CLERK: Amendment No. 10 to Committee Recommendation No. JB-1 by Delegate Bennett: On page 3 section 5.08 titled Composition of Superior Courts line 14, after period add: "The rule may provide that a judge assigned to a functional division shall serve on a non-rotational basis."

THE CHAIRMAN: Is the amendment seconded?

*(Whereupon, the amendment was seconded.)*

THE CHAIRMAN: Delegate Byrnes seconds.

The Chair recognizes Delegate Bennett to speak to the amendment.

DELEGATE BENNETT: Mr. Chairman, this is a simple declaration of policy contained in the constitution that would authorize it, or recognize rather, that these specialized functional courts require special abilities, special training, and that it is good sense and good wisdom to assign wherever possible a judge on a non-rotational basis. That could be done by rule, it is entirely within the discretion of the court.

THE CHAIRMAN: Does any other delegate desire to speak in opposition to the amendment?

Delegate Rybczynski.

DELEGATE RYBCZYNSKI: I would like to speak in behalf of that.

THE CHAIRMAN: Does any delegate desire to speak in opposition to the amendment?

Delegate Mudd.

DELEGATE MUDD: Mr. Chairman, I am in sympathy with the thought of Delegate Bennett, but it does seem to me this is obviously an unnecessary addition to section 5.08.

It is nothing more than a suggestion to the court that it may provide, what is available without such suggestion, for a judge on a nonrotational basis. To me it is adding something unnecessary to the section.

THE CHAIRMAN: The Chair recognizes Delegate Rybczynski to speak to the amendment.

DELEGATE RYBCZYNSKI: Mr. Chairman, what is occurring here in this section is, we are acting as a giant legislature and I think we should face up to that.

As to this section, I would like to go just as quickly as I can within this three minutes into a little background on why I think this is necessary.

As the jurisdiction expands and as the case load expands, we will have the superior court being broken down into probably the same traditional lines we have now, criminal section or division, equity division, and law division. This in turn, as the jurisdiction grows, breaks down again into criminal designed for major criminal cases, criminal involving youth court and criminal involving the juvenile.

I strongly suggest to you, Mr. Chairman, that at this time it will be important for